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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.

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HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent to the Senate H.3424, bill providing for **NEW STATE APPROPRIATIONS LIMITATIONS** and joint resolution H.3496 proposing the pertinent **AMENDMENTS TO THE GOVERNMENT APPROPRIATIONS PROVISIONS IN THE STATE CONSTITUTION**. In place of the existing limitation on state appropriations, the legislation provides for a new limit that would be the lesser of 106% of base-year appropriations, or base-year appropriations increased by a percentage formula based on the State's growth in population and any increases in the consumer price index. The limit would be effective beginning with fiscal year 2005 appropriations. The legislation also establishes a **SPENDING LIMIT RESERVE FUND**, comprised of all general fund revenues accumulated in a fiscal year in excess of the appropriations limit, and available for appropriation by the General Assembly in the year following the close of the applicable fiscal year. The legislation specifies purposes for which these funds may be appropriated. The legislation provides that, notwithstanding the requirement for passage of constitutional amendments and subsequent ratification to make these provisions effective, the General Assembly shall conform to these provisions beginning with fiscal year 2005 appropriations, to the extent appropriations allowed under the bill do not exceed the then applicable spending limit.

The House amended, approved, and sent to the Senate H.3361, relating to **SCHOOL MAKE-UP DAYS**. This bill provides that beginning with the 2003-2004 school year, each local school district board has the authority to establish an annual school calendar for students, faculty, and staff to include starting dates, ending dates, holidays, in-service days and professional development days. The bill also provides that all school districts shall annually designate at least three days for students and at least three days for teachers to be used as make-up days in the event of extreme weather or other disruptions. The bill authorizes the local board, under certain circumstances and with State Board of Education approval, to lengthen the hours of school operation by no less than one hour per day for the total number of hours missed. The bill also includes a provision that prior to introducing local legislation to excuse any days missed because of extreme weather or other disruptions, legislative delegations should determine by vote of the local school board whether the board supports excusing days missed for students or teachers, or both. Additionally, the bill provides that legislative delegations should determine whether the district has used the required designated make-up days or attempted to make up days by lengthening the hours of school operation prior to introduction of local legislation to excuse days.

The House amended and gave second reading approval to H.3564, a bill that expands **THE RIGHT OF A HOMEOWNER OR A TENANT TO DISPLAY THE UNITED STATES FLAG ON HIS REAL PROPERTY** to include an American Flag displayed on a free standing flagpole between fifteen and twenty feet for home display affixed to the structure of the home by a flagpole no longer than is reasonable for home display. A homeowners' association document, restrictive covenant in a deed,

rental agreement, lease, or another contract may not preclude such a display of the United States Flag.

The House approved and sent to the Senate H.3235, a bill pertaining to the **SOUTH CAROLINA ADMINISTRATIVE LAW COURT**. This bill changes the name of the Administrative Law Judge Division to the "South Carolina Administrative Law Court." The bill revises provisions relating to the application of the code of judicial conduct to administrative law judges, so as to clarify that the Commission on Judicial Conduct is responsible for enforcing and administering the Code of Judicial Conduct with respect to administrative law judges. The bill revises provisions relating to hearings and proceedings before the Administrative Law Court so as to provide that all requests for a hearing before the court must be filed in accordance with the court's rules of procedure.

The House amended, approved, and sent to the Senate H.3163, a bill **RESTRICTING COURT APPOINTMENT OF ATTORNEYS IN CIVIL ACTIONS**. This bill provides that a judge, court, or court official may not appoint an attorney to represent a party in a civil action unless the authority to make the appointment is provided by statute.

The House approved and sent to the Senate H.3078, a bill providing **CLARIFICATION OF THE OFFENSE OF UNLAWFUL THROWING OF BODY FLUIDS ON AN EMPLOYEE OF A LOCAL CORRECTIONAL FACILITY**. This bill revises the provision regarding the unlawful throwing of body fluids on an employee of a state or local correctional facility by an inmate, detainee, person taken into custody, or a person under arrest, so as to provide that the term "local correctional facility" includes, but is not limited to, a local detention facility.

The House amended, approved, and sent to the Senate H.3041, relating to **CLOTHING REQUIREMENTS FOR DEER HUNTING**. This bill requires that all persons hunting deer must wear a hat, shirt, coat, or vest of solid visible international orange, unless they are occupying a stand more than six feet above ground.

The House amended, approved, and sent to the Senate H.3303, relating to **DEER HUNTING ON SUNDAY**. This bill provides that it is not unlawful to hunt deer on Sunday on private land in this State during the prescribed season for hunting deer.

The House amended, approved, and sent to the Senate H.3297 a bill **REVISING TIME LIMITS FOR ACTIONS OF THE REAL ESTATE APPRAISERS BOARD** under the Department of Labor, Licensing and Regulation. Under the legislation, the board would have up to 120 days to issue and serve an order on a licensed appraiser and up to 30 days to issue and serve an order on an applicant. Under current law, all such actions of the board are subject to the 30-day maximum.

The House approved and sent to the Senate H.3386, a bill that authorizes appraiser apprentices and state licensed and certified appraisers to conform their professional conduct to the **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)** and its amendments, as promulgated by the Appraisal Standards Board of

the Appraisal Foundation, without having to go through the promulgation process to adopt each revision to the USPAP.

HOUSE COMMITTEE ACTION

JUDICIARY

The full House Judiciary Committee met on Tuesday, February 11, and reported out several bills.

The committee gave a favorable report on **H.3235**, a bill pertaining to the **SOUTH CAROLINA ADMINISTRATIVE LAW COURT**. This bill changes the name of the Administrative Law Judge Division to the "South Carolina Administrative Law Court." The bill revises provisions relating to the application of the code of judicial conduct to administrative law judges, so as to clarify that the Commission on Judicial Conduct is responsible for enforcing and administering the Code of Judicial Conduct with respect to administrative law judges. The bill revises provisions relating to hearings and proceedings before the Administrative Law Court so as to provide that all requests for a hearing before the court must be filed in accordance with the court's rules of procedure.

The committee gave a favorable report on **H.3078**, a bill providing **CLARIFICATION OF THE OFFENSE OF UNLAWFUL THROWING OF BODY FLUIDS ON AN EMPLOYEE OF A LOCAL CORRECTIONAL FACILITY**. This bill revises the provision regarding the unlawful throwing of body fluids on an employee of a state or local correctional facility by an inmate, detainee, person taken into custody, or a person under arrest, so as to provide that the term "local correctional facility" includes, but is not limited to, a local detention facility.

The committee gave a report of favorable with amendment on **H.3198**, a bill providing **REVISIONS TO THE FAMILY PRIVACY PROTECTION ACT**. This bill revises the prohibition of knowingly obtaining or using personal information obtained from a public body for commercial solicitation directed to a person in this state, so as to substitute "state agency" for "public body". The bill provides that the prohibition does not apply to a local governmental entity of a subdivision of this state or local government. The legislation provides that the definition of commercial solicitation under the act does not include selling or marketing real property and real property services. The legislation also provides that the definition of commercial solicitation under the act does not include notification of continuing education opportunities (rather than notification of continuing education opportunities sponsored by not-for-profit professional associations, as is currently provided).

The committee gave a report of favorable with amendment on **H.3163**, a bill **RESTRICTING COURT APPOINTMENT OF ATTORNEYS IN CIVIL ACTIONS**. This bill provides that a judge, court, or court official may not appoint an attorney to represent a party in a civil action unless the authority to make the appointment is provided by statute.

H.3228, a bill concerning **DEPARTMENT OF PUBLIC SAFETY MATTERS**, was recommitted to the Criminal Laws Subcommittee.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on Tuesday, February 11, and reported out two bills.

The committee gave a report of favorable with amendment on **H.3297** a bill **REVISING TIME LIMITS FOR ACTIONS OF THE REAL ESTATE APPRAISERS BOARD** under the Department of Labor, Licensing and Regulation. Under the legislation, the board would have up to 120 days to issue and serve an order on a licensed appraiser and up to 30 days to issue and serve an order on an applicant. Under current law, all such actions of the board are subject to the 30-day maximum.

The committee gave a favorable report on **H.3386**, a bill that authorizes appraiser apprentices and state licensed and certified appraisers to conform their professional conduct to the **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)** and its amendments, as promulgated by the Appraisal Standards Board of the Appraisal Foundation, without having to go through the promulgation process to adopt each revision to the USPAP.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3555 SWINE FEEDING OPERATIONS Rep. Witherspoon

This bill provides that counties and municipalities may not enact any ordinance that supercedes or imposes a more stringent standard than the standards established by Act 460 of 1996, an Act which imposed regulations on swine feeding operations.

H.3613 *DESTRUCTIVE BEAVER PERMIT* Rep. Duncan

This bill provides that a permit issued for the removal of destructive beavers is valid for a period of six months from the date of issue.

EDUCATION AND PUBLIC WORKS

**H.3580 *ADDITIONAL PENALTIES FOR CAUSING
MOTOR VEHICLE ACCIDENT* Rep. Neilson**

This bill requires that a person convicted of causing a motor vehicle accident, in addition to any other penalty, must be fined two hundred dollars and have his driver's license suspended until he completes a driver training course.

**H.3581 *REQUIREMENTS FOR DRIVERS WHO CONTRIBUTE TO
AN ACCIDENT* Rep. Neilson**

This bill provides that a driver of a specified motor vehicle with six or more wheels, who contributes to a collision which must be reported to the U.S. Department of Transportation, must complete a commercial motor vehicle driver retraining course approved by the Department of Public Safety within ninety days of the accident. The bill provides a penalty for failure to complete such a course.

H.3582 *WORLD WAR II MEMORIAL* Rep. Neilson

This joint resolution creates and provides for the World War II Memorial Monument Commission to design and establish an appropriate monument to be placed on the grounds of the Capitol Complex honoring South Carolina veterans who served during World War II. The resolution authorizes the Commission to solicit and raise private funds and to recommend to the General Assembly a site and design for such a monument, as well as an appropriation, if any appropriation is necessary.

H.3607 *SCHOOL DAYS MISSED IN ANDERSON COUNTY* Rep. Cooper

This joint resolution provides that certain school days missed by students in School District 1 of Anderson County when the school was closed due to weather conditions are exempt from the state make-up requirement for days missed.

H.3608 *NEIGHBORHOOD SCHOOLS* Rep. Leach

This bill requires that beginning July 1, 2004, a plan for a new educational facility must be a plan for a neighborhood school unless the facility was already under architectural contract on July 1, 2004. The bill requires that beginning with the 2004-2005 school year, the State Department of Education shall adopt policies for a school that does not meet the definition (as provided in the bill) of a "neighborhood school" to subdivide into schools-within-a-school, which must operate within existing resources. The bill also requires the State Department of Education to promulgate regulations to eliminate minimum acreage requirements for school site selection by July 1, 2004.

JUDICIARY

H.3551 DUAL OFFICEHOLDING FOR MUNICIPAL POLICE AND CORRECTIONS OFFICERS Rep. Gourdine

This bill provides that a municipal police officer who holds a local office in a county other than the one in which he exercises law enforcement responsibility or a corrections officer who holds a local office in another political subdivision is not considered a dual officeholder for the purposes of the Constitution of South Carolina.

H.3552 REPORTING INSTANCES OF CRUELTY TO CHILDREN, VULNERABLE ADULTS, OR ANIMALS Rep. Lourie

This bill revises the list of persons required or permitted to report child abuse or neglect, so as to include an officer or agent of the South Carolina Society for the Prevention of Cruelty to Animals or of a society incorporated for the prevention of cruelty to animals and an animal control officer. These individuals are also added to the list of persons required to report abuse, neglect, or exploitation of vulnerable adults. The bill provides that Department of Social Services and Adult Protective Services employees must report known or suspected instances of animal cruelty, fighting, or baiting. The bill provides for immunity from liability for such reporting. The bill provides that any veterinarian or other person may report suspected animal cruelty, fighting, or baiting. The bill provides for immunity from civil and criminal liability for such reporting.

H.3553 ALCOHOL SALES NEAR CHILDCARE FACILITIES Rep. Lourie

This bill revises provisions relating to applications for permits to manufacture and sell beer and wine, so as to include proximity to a childcare facility as a factor that may be considered in determining if a location is suitable for the issuance of a permit. The bill revises the prohibition against issuing a license for the sale of alcoholic liquors within a certain proximity of a church, school, or playground, so as to extend this prohibition to include childcare facilities.

H.3568 MARRIAGE LICENSE APPLICATION REQUIREMENTS Rep. Harrison

This bill revises marriage license application requirements, so as to eliminate the requirement that the application contain social security numbers or the alien identification numbers assigned to resident aliens who do not have social security numbers. The bill requires the parties to sign the application in the presence of an employee of the court and to present a photo identification issued by the State or another governmental entity.

H.3570 CANDIDATE FILING FOR PARTISAN OFFICES Rep. Scott

This bill revises the procedure for a candidate to file and run for partisan offices in a primary and general election, so as to require the candidate to file with the authority charged by law with conducting the election rather than the political party.

**H.3572 BEER AND WINE SALES PERMITS PROHIBITED FOR BUSINESSES
CONDUCTING FIREARMS GAMES** Rep. Keegan

This bill prohibits the issuance of a permit for selling beer and wine if the applicant conducts games using firearms at which prizes are awarded on the property on which the place of business is located and is to be licensed for on-premises consumption of beer or wine.

H.3587 EQUALIZATION OF COURT-ORDERED CHILD CUSTODY Rep. Rhoad

This bill provides that in proceedings in which child custody and visitation are in dispute there is a presumption that joint custody is in the best interest of the child. The bill requires the court to order joint custody absent written findings that a parent is unfit or geographically removed. The bill requires the court to equalize and promote opportunities for each parent to be involved in activities in the child's life in and out of school.

**H.3590 REFERENDUM ON AMENDING U.S. CONSTITUTION TO ALLOW
STATES TO PROHIBIT ABORTION** Rep. Davenport

This joint resolution directs the State Election Commission to hold a referendum at the time of the next general election for representatives to ascertain whether the South Carolina electors favor amending the United States Constitution to allow states to prohibit abortions.

H.3592 TRUSTS AND ESTATES Rep. Delleney

This bill revises provisions relating to allocation of receipts and disbursements between principal and income for purposes of a trust or estate, so as to expand the scope of the section by making a change in a cross-reference.

H.3594 DNA SAMPLING FOR ALL INMATE FELONS Rep. Jennings

This bill revises requirements that certain offenders provide a DNA sample, so as to provide that, beginning July 1, 2003, rather than requiring only certain offenders to provide a DNA sample, all persons convicted or adjudicated delinquent for any felony must provide such a sample. The bill includes provisions for obtaining samples from those convicted or adjudicated delinquent felons prior to this act's effective date who are serving a term of confinement on this act's effective date.

**H.3601 POLITICAL SUBDIVISIONS REQUIRED TO OBSERVE STATE LEGAL
HOLIDAYS** Rep. F. N. Smith

This bill requires all political subdivisions of the state receiving any state funds to observe state legal holidays. The bill provides that payment of state funds otherwise due a political subdivision must be suspended if a political subdivision fails to observe all state legal holidays

**H.3611 PUBLIC ACCESS TO GOVERNOR'S MEETINGS WITH
AGENCY/DEPARTMENT HEADS** Rep. J. E. Smith

This bill provides that meetings of the Governor with agency or department heads he appoints together with any other public officials or employees invited to attend must be open to the public in the same manner and under the same conditions that

meetings of public bodies must be open to the public under the Freedom of Information Act.

LABOR, COMMERCE AND INDUSTRY

H.3566 *ENFORCEMENT AUTHORITY OF PUBLIC SERVICE COMMISSION*

Rep. Cato

This bill authorizes the Public Service Commission to impose monetary fines upon court approval and other penalties including certificate revocation upon an entity subject to its jurisdiction for willful violation of or refusal to comply with any statute, regulation, or order of the commission. The bill provides that the commission also may institute a proceeding for injunctive relief in the court of common pleas to compel an entity to comply with any statute, regulation, or order of the commission.

H.3571 *LAW ENFORCEMENT OFFICERS' CARDIAC INCIDENTS UNDER WORKERS' COMPENSATION LAW*

Rep. Bingham

This bill revises provisions relating to occupational diseases under the South Carolina Workers' Compensation Law, by establishing a presumption that a cardiac incident occurring in law enforcement officers under certain conditions arose out of the course of employment.

H.3575 *UNCLAIMED DEMUTUALIZATION PROCEEDS OF INSURANCE COMPANIES*

Rep. Cooper

This bill provides for treatment of unclaimed property payable or distributable in the course of the demutualization of an insurance company as abandoned in five years. The bill revises provisions relating to reports of unclaimed property, so as to require the filing of a report of unclaimed demutualization proceeds before May first of each year.

H.3616 *"SOUTH CAROLINA HIGH-COST AND CONSUMER HOME LOANS ACT"*

Rep. Cato

This bill enacts the South Carolina High-Cost and Consumer Home Loans Act which prohibits various lending practices and provides relief for consumers adversely affected by such lending practices.

H.3617 *PRENEED BURIAL CONTRACTS*

Rep. Sandifer

This bill creates the Preneed Funeral Loss Reimbursement Fund provides for the purpose and uses of monies in the fund. The bill revises transfer procedures for trust funds held pursuant to preneed burial contracts. The bill provides penalties for entering into preneed burial contracts without proper licensure.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3563 *DISTRIBUTION OF STRAWS IN PUBLIC PLACES* Rep. Howard

This bill requires that a straw that is distributed in a restaurant or other public place must be covered in a wrapper.

H.3591 *HEARING AIDS* Rep. Davenport

This bill conforms statutes regarding the practice of specializing in hearing aids to the statutory, organizational, and administrative framework established for professional and occupational boards. The bill includes provisions for the licensure and regulation of hearing aid specialists, including penalties for violations. The bill devolves the powers, duties, functions, and responsibilities of the Department of Health and Environmental Control regarding the "Practice of Specializing in Hearing Aids Act" upon the Department of Labor, Licensing, and Regulation.

WAYS AND MEANS

H.3548 *FEES FOR FILING AND INDEXING RECORDS* Rep. Cooper

This bill amends the Secured Transactions chapter under the Uniform Commercial Code so as to recalculate how the fee is assessed for filing and indexing certain records.

H.3549 *FURLOUGHS AT ADJUTANT GENERAL'S OFFICE* Rep. J.E. Smith

This joint resolution authorizes and provides for the State Adjutant General's office to institute employee furlough programs of not more than ten working days.

H.3550 *AUDIT OF EDUCATION FUNDING* Rep. Duncan

This bill requires the State Budget and Control Board to engage a firm to audit finances and management of the State Department of Education and such other entities it considers necessary in order to perform a comprehensive analysis of the state budgetary process in regard to education funding and the manner in which education services are delivered. The purpose of such audits is to reduce waste and duplication within this system.

H.3554 *PARTICIPATION IN SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM* Rep. W.D. Smith

This bill allows assistant solicitors to elect to participate in the South Carolina Police Officers Retirement System.

H.3567 *STATE TREASURER'S REPORTS* Rep. Witherspoon

This bill provides for electronic rather than newspaper publication of the State Treasurer's quarterly reports showing the amount of money on hand, in what banks it is deposited and the respective funds to which it belongs.

H.3569 *LIEUTENANT GOVERNOR'S OFFICE EMPLOYEES* Rep. Cooper

This bill exempts staff of the Lieutenant Governor's Office from the Budget and Control Board's classification and compensation plan and from the State Employee Grievance Procedure Act.

H.3579 *SOUTH CAROLINA HEALTH AND HUMAN SERVICES*

***REORGANIZATION AND ACCOUNTABILITY ACT* Rep. Rice**

This bill enacts the South Carolina Health and Human Services Reorganization and Accountability Act of 2003, a comprehensive plan which restructures the state's health and human services agencies. Under this bill, the Continuum of Care for Emotionally Disturbed Children is transferred to the Department of Social Services. The Department of Alcohol and Other Drug Abuse Services and the Department of Mental Health are transferred to the Department of Health and Human Services. The South Carolina Commission for the Blind is transferred to the Department of Vocational Rehabilitation.

The bill also creates and provides for the Department of Information Technology for Health and Human Service Agencies, responsible for the management and administration of all information technologies for specified state health and human services agencies.

The bill establishes and provides for the Joint Legislative Committee on Health and Human Services, charged to study the State's Medicaid program and to make recommendations in specified areas and report annually to the Governor and the General Assembly .

The bill establishes within the Department of Health and Human Services the Office of the Inspector General, to be appointed by and serve under the Joint Legislative Committee on Health and Human Services, and charged to conduct audits, reviews, investigations, and inspections; prevent and detect waste, fraud, and abuse; and promote accountability, economy, effectiveness, and efficiency. The Inspector General is required under the bill to report and make recommendations to the Joint Committee, at least semi-annually, regarding problems, abuses, and deficiencies in the administration and operation of departmental programs, and report certain information regarding audits issued during the reporting period.

The bill also provides a Medicaid Cost Containment Plan which the Director of the Department of Health and Human Services must submit to the Budget and Control Board. The plan must include specified information regarding projected expenditures for the State Medicaid Program for the next fiscal year.

The bill imposes a tax on cigarettes of 2.1¢ per cigarette and requires that funds collected from this tax must be credited to the Medicaid Services Fund, established in the bill, and used as provided in the bill.

The bill also reduces the state corporate income tax and the income tax rates for certain exempt organizations and cooperatives, to four percent for taxable years beginning in 2004, and to two percent for taxable years beginning in 2005.

**H.3586 INTERSTATE BULK PRESCRIPTION DRUG
PROGRAM** Rep. Clemmons

This bill creates the Interstate Bulk Prescription Drug Program to be implemented by the Department of Health and Human Services to provide prescription drugs at a reduced cost to residents age sixty-five or older or disabled who do not have prescription drug coverage.

H.3588 INCREASE IN BEER AND LIQUOR TAX Rep. Rhoad

This bill increases the license tax on beer from .6 cents an ounce to .77 cents an ounce, and increases the license tax on alcoholic liquors from twelve cents to 13.25 cents on each eight ounces, and from 50.7 cents a liter to 55.7 cents a liter.

H.3593 INSURANCE FOR CERTAIN SMALL EMPLOYERS Rep. Bingham

This bill allows and provides for certain small employers to participate in the State Health and Dental Plan.

H.3595 SICK LEAVE CREDITED AT RETIREMENT Rep. McLeod

This bill increases from ninety to one-hundred eighty the number of days of accumulated sick leave that is added to credited service of a member of the South Carolina Retirement System and the South Carolina Police Officers Retirement System.

H.3596 SICK LEAVE ALLOWED STATE EMPLOYEES Rep. McLeod

This bill increases from eight to ten the number of annual sick days a state employee is allowed to use to care for an ill immediate family member.

H.3597 SICK LEAVE ACCRUAL FOR STATE EMPLOYEES Rep. McLeod

This bill increases from one hundred eighty to two hundred the number of sick leave days a state employee may accrue.

H.3598 SALES TAX EXEMPTION FOR READING GLASSES Rep. Richardson

This bill provides a sales and use tax exemption for reading glasses.

**H.3612 SOUTH CAROLINA SCHOOL DISTRICTS PROPERTY
TAX RELIEF ACT** Rep. Littlejohn

This bill proposes and provides for a voter referendum on the question of imposing a one percent sales and use tax within a county for a specified period, with the revenue used to pay certain debt related to capital improvements. The bill includes provisions for implementation of such a tax if it is approved in the referendum.

H.3614 ALLOWABLE INCOME TAX DEDUCTIONS Rep. Limehouse

This bill provides a deduction from individual income taxes of reward money paid to a resident taxpayer for information the taxpayer provides which directly leads to the removal as a threat of an international terrorist.

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